

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

MICHAEL RAY TIMMONS	§	
V.	§	CIVIL ACTION NO. 6:05CV74
TAMMY MACKLIN, ET AL.	§	

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie. The Report of the Magistrate Judge, which contains her findings of fact and recommendations for the disposition of such action, has been presented for consideration. It appearing that a copy of such Report was sent to the last known address of the Plaintiff by certified mail, return receipt requested; accordingly, such proposed findings and recommendations will be considered, since no objections have been forthcoming from the Plaintiff.

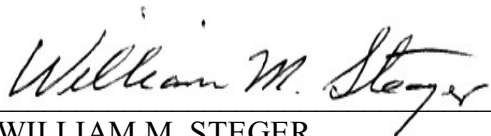
After careful deliberation concerning such proposed findings and recommendations, it is determined that they are correct and should be adopted by the Court. It is therefore,

ORDERED that Plaintiff's claims seeking damages be **DISMISSED WITHOUT PREJUDICE** until such time as Plaintiff can demonstrate that his convictions have been set aside, overturned, declared invalid, or called into question through the issuance of a federal writ of habeas corpus or coram nobis. It is further

ORDERED that Plaintiff's claims which sound in habeas corpus, including his requests for release from confinement and expungement of these convictions, be **DISMISSED WITH PREJUDICE** until such time as Plaintiff obtains leave from the Fifth Circuit Court of Appeals to file a successive habeas corpus petition.

All motions not previously ruled on by either party are hereby **DENIED**.

SIGNED this 26th day of May, 2005.


WILLIAM M. STEGER
UNITED STATES DISTRICT JUDGE